

General Business Terms and Conditions of INCOS, spol. s r.o.

1) General Provisions

1. These Business Terms and Conditions (hereinafter referred to as "BTC") are as business conditions in the sense of §1751 et seq. of Act No. 89/2012 Coll., Civil Code, as amended, an integral part of the contract concluded between INCOS, spol. s r.o., ID: 45311838 (hereinafter referred to as the "Seller"), and its Customer (Buyer) – a legal entity or a natural person conducting business activities (hereinafter referred to as the "Buyer"). The provisions of a purchase contract or a service contract (hereinafter referred to as the "Contract" or „Agreement“) take precedence over the provisions of these BTCs. The Contract and these BTC constitute the entire agreement of the Seller and the Buyer and supersede all previous oral or written arrangements of the Contracting Parties.
2. These BTCs are publicly available on the Seller's website www.incos.cz.
3. All information contained in the Contract and other information provided by the Seller to the Buyer in connection with the conclusion of the Contract is considered a trade secret and thus confidential. The Buyer may not disclose such information to third parties without the Seller's prior consent or otherwise use it for its own needs contrary to the purpose of the Contract.
4. Legal acts made by electronic or other technical means enabling the content capture and identification of the acting person shall also be deemed to be legal acts made in writing under these BTC, provided that the content is definite and comprehensible, and the given act performed by a person specified in the Contract or other authorized person appointed by the person given in the Contract.

2) Conclusion of the Contract

1. The Buyer orders the goods on the basis of a written order. The Seller confirms the order by a written confirmation of the order (hereinafter referred to as "Confirmation"). Within three (3) working days of receipt of the Confirmation, the Buyer is obliged to deliver this Confirmation to the Seller signed by an authorized person. If the Seller receives the Confirmation later, the Seller is entitled to modify the date of delivery of the goods as well as other data and send a new Confirmation to the Buyer.
2. The Contract is concluded at the moment when the Confirmation, signed by the Buyer's authorized person, is delivered to the Seller.

3) Packaging

1. If the Seller and the Buyer do not agree on a special way of packing the goods, the Seller shall provide the goods with packaging according to the type of goods supplied,

suitable for dispatching and transporting the delivered goods, otherwise in a way necessary for the preservation of goods and its protection.

2. If there is no other agreement between the Seller and the Buyer, the packaging shall be deemed non-refundable and shall remain at the Buyer's disposal (the Buyer becomes the owner of the packaging upon receipt of the Goods), except for the packaging for which it is expressly agreed to return it to the Seller. In such cases, the Seller remains the owner of the packaging and the Buyer bears the risk of damage to the packaging as long as the packaging is available to the Buyer.

4) Delivery of Goods

1. The Seller undertakes to make every effort to deliver the goods to the Buyer within the period specified in the Contract.
2. The moment of delivery of the goods to the Buyer shall be considered the date and time agreed in the Contract. The moment and the way of delivery of goods may be agreed in the Contract by reference to the INCOTERMS clause.
3. If it is agreed in the Contract that the transport of goods is ensured by the Buyer, the Seller is obliged to notify the Buyer when the goods will be ready for takeover. If the Seller does not specify the time limit for taking over the goods at the same time, the Buyer is obliged to collect the goods within three (3) working days after the goods are ready for takeover. If the Buyer does not take over the goods within this period, the goods shall be deemed delivered after the expiry of the three-day period and the risk of damage to the goods passes from the Seller to the Buyer. In these cases, the Seller is entitled to charge the Buyer a storage fee in the amount of 0.07% of the total value of the goods stored for each day.
4. If it is agreed in the Contract that the Seller ensures the transport of goods, the Buyer is obliged to inform the Seller of all necessary data for transport and delivery of goods within three (3) days from the moment when the Seller informs the Buyer that the goods are ready for delivery. If the Seller does not receive all the necessary data for shipment within the three-day period, the Seller is not in delay with the delivery of the goods and is entitled to charge the Buyer a storage fee in the amount of 0.07% of the total value of the goods stored for each day.
5. The Seller may adjust the agreed quantity of ordered goods with respect to its nature, form, packaging method, etc. (e.g. round to it to whole meters, kilograms, whole packages, to production lengths, etc.). Adjustments made in this way may result in a change in the quantity delivered within +/- 10% of the agreed amount. Such change does not have any impact on other provisions of the Contract.
6. Partial deliveries are admissible unless otherwise provided in the Contract.
7. The risk of damage to the goods passes from the Seller to the Buyer at the moment of delivery of the goods.

8. If the Seller is in delay with the delivery of the goods and the proves to the Buyer the reason for the delay, the Buyer is not entitled to withdraw from the Contract. The Buyer has the right to withdraw from the Contract due to delay in delivery of the subject of the Contract in case of ineffective expiration of the additional (at least 21 days) term of delivery of the subject of the Contract and if the Seller does not provide the subject of the Contract after confirmation of this period.
9. If the Buyer refuses to take over the properly delivered goods or fails to provide the necessary cooperation for the delivery of the goods, the Seller is entitled to withdraw from the Contract and the Buyer is obliged to pay the Seller a contractual penalty amounting to 15% of the purchase price of the affected goods. The payment of the contractual penalty does not affect the Seller's claim for damages.

5) Payment Terms

1. The Buyer is obliged to pay the purchase price to the Seller's account within the period agreed in the Contract. If this deadline has not been agreed, the due date indicated on the invoice is decisive.
2. Failure to pay the purchase price within maturity is a material breach of the contract.
3. If the purchase price is to be paid in installments, the non-payment of one installment within the stipulated time limit will also make the remaining purchase price due and payable immediately.
4. The Buyer is fully responsible for the correctness of the information given in the order. Therefore, when the invoice corresponds to the order as far as the price, quantity and quality of the order concerned, the Buyer is not entitled to refuse to accept the goods or to make the payment of the issued invoice in any way conditional.
5. The purchase price shall be deemed paid by crediting the relevant amount to the Seller's account.
6. 6. In case of delay in payment of the purchase price, the Buyer is obliged to pay the Seller interest on late payment amounting to 0.05% of the outstanding amount for each calendar day of delay.
7. If the Seller has issued to the Buyer more invoices that have not yet been paid, the Buyer is obliged to identify each payment with a variable symbol of the relevant invoice. If the variable symbol is not stated by the Buyer, the Seller is entitled to choose which receivable of the Buyer the payment will be credited to.
8. Within fifteen (15) calendar days of receipt of the Seller's request, the Buyer is obliged to approve the status of mutual receivables and liabilities, including accessories and/ or at the same time to prove in writing that the status presented by the Seller is different. Failure to comply with this obligation gives the Seller the right

to suspend the delivery of goods or to withdraw from the already concluded Contract.

6) Retention and Offsetting

1. The Buyer shall not be entitled to withhold all or part of the purchase price or the price of the claimed goods or refuse to accept any further delivery of goods due to any receivables expected to be paid by the Seller.
2. The Buyer is not entitled to unilaterally set off its claims towards the Seller against the purchase price of the goods.
3. The Buyer is also not entitled to assign any receivables from the Seller to third parties.
4. Should the Buyer incur any claims against the Seller, this shall not affect any Buyer's obligations under the Contract.

7) Reservation of Ownership

1. The Goods that are the subject of the Contract remain the property of the Seller until full payment of the purchase price and all its accessories, including any default interest and contractual penalties.
2. The Buyer has no right, in any way, to alienate, burden, process or otherwise dispose of the Seller's goods without the Seller's written consent.

8) Suspension of Deliveries

1. In the event of the Buyer's delay in payment of the purchase price, the Seller is entitled to suspend any deliveries of goods, or shall have the right to stop production of already ordered goods or to withdraw from any already concluded Contract.
2. The Seller is entitled to suspend the delivery of goods due to the achievement of the current insurance limit set by the Insurance Company, where the Seller is insured against the risk of non-payment of monetary claims or receivables. The Seller is then entitled to demand advance payment or other acceptable debt security, such as a bank guarantee, for outstanding supplies. The Buyer is not entitled to withdraw from the Contract.
3. In the event that the Seller suspends the delivery of goods pursuant to paragraph 8.1-2., the Seller is not in delay with the delivery of goods and is entitled to charge the Buyer a storage fee in the amount of 0.07% of the total value of the goods stored for each day.

9) Warranty Period

1. The Seller grants the Buyer a warranty of six (6) months from the date of delivery. The Seller shall not be liable for defects in the goods caused by wear and tear in normal use or when the goods were used contrary to the purpose of the Contract or the nature of the goods.
2. The warranty period may be extended based on a written agreement of the Contracting Parties.
3. The Buyer is obliged to inspect the goods and to verify their properties and quantity immediately after being delivered.
4. The Buyer is obliged to notify the Seller of obvious defects of the goods which could be found out during the inspection upon the delivery of the goods without undue delay, no later than five (5) calendar days from the delivery of the goods.
5. The Buyer is obliged to notify the Seller of any other defects of the Goods immediately after their discovery, but no later than by the end of the agreed warranty period. Failure to report defects within the deadlines will result in extinction of the Buyer's right to claim the defects.
6. The Buyer shall, at any time when manipulating with the goods, including handling, storage, transport and security, ensure the expert's care and ensure that the goods are not exposed to any adverse effects that could affect the quality or properties of the Goods.
7. The warranty hereunder is subject to highly qualified handling of the goods and is limited only to defects caused by manufacturing or material defects caused by the manufacturer.

10) Reclamations or Complaints

1. The Buyer is obliged to notify the Seller of the defects found in writing within the deadlines specified in the "Warranty Period" article.
2. In the case of a complaint, the Buyer is obliged to state the order number and the identification of the specific goods (heat number, tubes No., quantity), description of defects with proof of evidence, including photographic documentation and place of storage of goods.
3. The Buyer is obliged to allow the Seller access to the claimed goods for the purpose of verifying the justification of the complaint. The Seller reserves the right to request from the Buyer a sample of the claimed goods for its own assessment.
4. In the event that any of the goods claimed demonstrably does not meet the confirmed parameters, the Seller reserves the right to choose whether:

- a) the goods would be repaired if the defect is repairable,
 - b) the goods would be replaced,
 - c) there would be provided a discount on the purchase price in proportion to the defect
5. If the Seller is unable to act under paragraph 4. a, b, c, the Seller may choose to return the purchase price and accept the goods back. A defective subject of the Contract shall be returned in an undamaged condition, neither destroyed.
 6. If the defect is repairable, the Seller shall repair the goods at the Buyer or at a place specified by the Seller.
 7. If the Buyer has an independent expert opinion prepared without the Seller's prior consent, then the Buyer loses the right to reimbursement of costs associated with the preparation of such an opinion even in the case of a recognized claim.
 8. The claim shall not arise if the Buyer starts repairing the claimed defect without the Seller's consent.
 9. The claim shall also not arise if the Buyer discovers a defect of the goods in a manner not required by the Contract. A claim for a claim also does not arise if the goods do not have properties that have not been expressly agreed in the Contract.

11) Liability for Damage

1. If the Buyer incurs any damage as a result of a breach of some of the Seller's obligations under the Contract, the Seller will be obliged only to pay for such property damage (not lost profit), which shall be quantified and proved to the Seller, however, up to the amount corresponding to the purchase price of the damaged goods. In the event of damage arising from breach of the Seller's various obligations under the Contract, i.e. in the event of the Seller's total liability for damages incurred by the Buyer, the damages shall in no case exceed the amount corresponding to the purchase price of the goods to which the damages relate.
2. If the Buyer incurs any damage as a result of the Seller's delay in the delivery of the goods, the Seller shall be liable for such damage only if it was caused due to the Seller's deliberate misconduct or the Seller's gross negligence, and only up to the amount of the advance payment made.
3. The Seller shall not be liable for any damage incurred by the Buyer as a result of a defect in the goods, unless the Buyer specified in the Contract the specific use of the goods or in the case where the Seller did not confirm the specific parameters of the goods and the manner how to use the goods.

4. The Seller shall not be liable for any indirect damage (including the Buyer's business activities with third parties or the Buyer's manufacturing enterprises) that would result from a breach of the Contract by the Seller.
5. If the Seller becomes responsible to the third party due to circumstances arising on the part of the Buyer for damage or property damage, the Seller has the right to demand compensation from the Buyer for such damage or property damage.

12) Force Majeure

1. Force majeure shall be considered extraordinary circumstances preventing the performance of obligations under the Contract arising after the conclusion of the Contract, which could not be averted by the relevant Contracting Parties.
2. If circumstances of force majeure arise and the Seller's contractual obligations thus cannot be fulfilled, the Seller has the right to reasonably extend the delivery period or withdraw from the Contract. In these cases, the buyer is not entitled to any damages.
3. If, due to force majeure, the supplier of the Seller (manufacturer) increases the purchase price of the goods, the Seller is entitled to propose to the Buyer a change in the purchase price or withdraw from the Contract.

13) Final Provisions

1. After concluding the Contract, the Buyer assumes the risk of a change of circumstances and for this reason is not entitled to claim the rights specified in § 1765 (1) of Act No. 89/2012 Coll., Civil Code, as amended.
2. The Contract is governed by the laws of the Czech Republic in valid and effective versions. The application of the UN Convention on Contracts for the International Sale of Goods (Vienna Convention), published under No. 160/1991 Coll., is excluded from the Contract.
3. All disputes which may arise out of, in connection with the Contract or in connection with legal acts related to the Contract shall be primarily resolved by mutual agreement and conciliation. If no agreement is reached between the contracting parties on the amicable settlement of such a dispute, the dispute shall be decided definitively by the Arbitration Court of the Chamber of Commerce of the Czech Republic and the Agricultural Chamber of the Czech Republic according to its Rules, by three arbitrators appointed pursuant to their Rules. The Contracting Parties undertake to fulfill all obligations imposed on them in the arbitration award within the time limits set therein.

These BTC shall apply to Contracts concluded from May 1, 2019.